

DISTRICT OF NEVADA

Case No.: 3:18-cv-00104-WGC

Order

Re: ECF Nos. 184, 187

NO. 8 MINE, LLC,

Plaintiff

V.

THE ELJEN GROUP, LLC, et. al.

Defendants

THE ELJEN GROUP, LLC, et. al.

Counter-Plaintiffs

V.

NO. 8 MINE, LLC

Counter-Defendant

THE ELJEN GROUP, et. al.,

Third Party Plaintiffs

V.

DAVID TACKETT, et. al.,

Third Party Defendants

Defendants/Counter-Plaintiffs/Third Party Plaintiffs the Eljen Group, LLC, Elven E.

Jennings, Jack Elkins, Frank Lente, and Steve Harper (collectively, the Eljen Parties) have filed a

1 Motion for Attorney's Fees and Costs (ECF Nos. 184, 184-1 to 184-8) as well as a Motion for
2 Assignment of Right of Action (ECF No. 187).¹ When these motions were filed, Mr. Tackett and
3 No. 8 Mine, LLC were represented by counsel, Mitchell Posin, Esq. No response was filed on
4 behalf of Mr. Tackett or No. 8 Mine to the Motion for Attorney's Fees and Costs, and the Eljen
5 Parties filed a notice of non-opposition. (ECF No. 186.) Nor was a response filed to the Motion
6 for Assignment of Right of Action. Mr. Posin subsequently filed a motion to withdraw as
7 counsel. (ECF No. 188.) The court granted the motion to withdraw on February 3, 2021.
8 (ECF No. 195.) At the same time, the court ordered No. 8 Mine, LLC to file a substitution of
9 counsel by March 8, 2021, and was cautioned that if it failed to timely secure replacement
10 counsel, its participation in this case may be terminated. (*Id.*)

11 No. 8 Mine has not filed a substitution of counsel. An entity such as No. 8 Mine may
12 only appear in federal court through licensed counsel. *See Rowland v. Cal. Men's Colony*, 506
13 U.S. 194 (1993); *see also* 28 U.S.C. § 1654; *D-Beam Ltd. P'ship v. Roller Derby Skates, Inc.*,
14 366 F.3d 972, 973-74 (9th Cir. 2004); *United States v. High Country Brand Co., Inc.*, 3 F.3d
15 1244, 1245 (9th Cir. 1993). The court has already stricken No. 8 Mine's complaint and answer to
16 the Eljen Parties' first amended counterclaim/third party complaint (ECF No. 160), and No. 8
17 Mine is hereby advised that it may not conduct any further litigation in this court on its own
18 behalf.


20 ¹ The court is aware that the Eljen Parties sought expedited relief on the latter motion; however,
21 the Eljen Parties should note that the Harringtons have filed a motion for an order to show cause
22 why Mr. Tackett should not be held in contempt, arguing that the turquoise ore that Mr. Tackett
23 offered up to them is not the Harringtons' turquoise ore, but essentially worthless dirt. *See* ECF
No. 165 in 3:18-cv-00028-WGC. The Harringtons' payment of the \$20,000 back to Mr. Tackett
is contingent upon his returning their No. 8 turquoise ore, which, according to the Harringtons'
has not yet occurred; therefore, the Eljen Parties are not harmed by the delay in addressing this
motion.

1 To date, no response has been filed to the Motion for Attorneys Fees and Costs (ECF No.
2 184) or the Motion for Assignment of Right of Action (ECF No. 187). Since these motions were
3 filed when No. 8 Mine and Tackett were represented by counsel, and the time to file a response
4 expired while they were still represented by Mr. Posin, and given Mr. Tackett's claims that
5 Mr. Posin did not advise him of important filings or deadlines in this action, the court will afford
6 Mr. Tackett (but not No. 8 Mine since it may not appear in this court on its own behalf) one final
7 opportunity to file a response to these motions.

8 Mr. Tackett has until **June 1, 2021** to file a response to the Eljen Parties' Motion for
9 Attorneys Fees and Costs (ECF No. 184) and the Motion for Assignment of Right of Action
10 (ECF No. 187). The Eljen Parties shall file any reply briefing on or before **June 11, 2021**.

11 **IT IS SO ORDERED.**

12 Dated: May 13, 2021

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14 William G. Cobb
15 United States Magistrate Judge
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